

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA

CHARLESTON DIVISION

IN RE: ETHICON INC., PELVIC) Master File No.

REPAIR SYSTEM PRODUCTS) MDL No. 2327

LIABILITY LITIGATION) JOSEPH R. GOODWIN

U.S. DISTRICT JUDGE

16 VIDEOTAPED DEPOSITION OF BRUCE S. KAHN, M.D.
17 SAN DIEGO, CALIFORNIA
18 THURSDAY, AUGUST 1, 2019
19 11:04 A.M.

Bruce S. Kahn, M.D.

Page 2	Page 4
1 Deposition of BRUCE S. KAHN, M.D., held:	1 C O N T E N T S
2	2 EXAMINATION OF BRUCE S. KAHN, MD PAGE
3	3 By Mr. Clinton 6
4	4 By Mr. Koopmann 179
5 BOWMAN & BROOKE, LLP	5
6 750 B Street	6
7 San Diego, California 92101	7
8	8 E X H I B I T S
9	9 (Attached to transcript)
10	10 KAHN DEPOSITION EXHIBITS PAGE
11	11 No. 1 Second Amended Notice to Take
12 Pursuant to notice, before Leslie Anne Todd, Court	12 Deposition of Bruce Kahn, M.D. 14
13 Reporter in and for the State of California, who	13 No. 2 Invoices of Bruce Kahn, M.D. to
14 officiated in administering the oath to the witness.	14 Butler Snow 18
15	15 No. 3 Various e-mails 21
16	16 No. 4 Bruce S. Kahn, M.D., F.A.C.O.G.
17	17 Curriculum Vitae 25
18	18 No. 5 Folder produced by Dr. Kahn at
19	19 deposition 70
20	20 No. 6 General Materials List in Addition
21	21 to Materials Referenced in Report 80
22	22 No. 7 General Expert Report of Bruce S.
23	23 Kahn, M.D. 103
24	24 No. 8 Flash drive 184
Page 3	Page 5
1 APPEARANCES:	1 P R O C E E D I N G S
2	2 -----
3 ON BEHALF OF THE PLAINTIFFS:	3 THE VIDEOGRAPHER: We are now on the
4 MICHAEL R. CLINTON, ESQUIRE	4 record. My name is Jim Lopez. I'm the videographer
5 PERDUE & KIDD	5 for Golkow Litigation Services. Today's date is
6 777 Post Oak Boulevard, Suite 450	6 August 1st, 2019, and the time is approximately
7 Houston, Texas 77056	7 1:04 p.m.
8 (713) 520-2500	8 This video deposition is being held in
9	9 San Diego, California, in the matter of In Re:
10 ON BEHALF OF THE DEFENDANTS:	10 Ethicon Inc. Pelvic Repair System Product Liability
11 BARRY J. KOOPMANN, ESQUIRE	11 Litigation, MDL No. 2327, documents related to all
12 BOWMAN AND BROOKE, LLP	12 Wave 11 and subsequent wave cases and plaintiff, for
13 150 South Fifth Street	13 the United States District Court for the Southern
14 Suite 3000	14 District of West Virginia, Charleston Division.
15 Minneapolis, Minnesota 55402	15 The deponent is Dr. Bruce Kahn.
16 (612) 339-8682	16 Counsel will be noted on the stenographic
17	17 record.
18 ALSO PRESENT:	18 Will counsel please identify themselves.
19 JIM LOPEZ (Videographer)	19 MR. CLINTON: Michael Clinton with the
20	20 Perdue & Kidd Law Firm on behalf of the plaintiffs in
21	21 this litigation.
22	22 MR. KOOPMANN: Barry Koopmann from the
23	23 Bowman & Brooke Law Firm on behalf of Ethicon and
24	24 Johnson & Johnson.

<p style="text-align: right;">Page 22</p> <p>1 involvement in the litigation.</p> <p>2 MR. CLINTON: Is the -- I will work</p> <p>3 backwards.</p> <p>4 Is the flash drive limited to only</p> <p>5 documents that have been sent to him or is it</p> <p>6 everything that's in the reliance list?</p> <p>7 MR. KOOPMANN: It is everything that's in</p> <p>8 the reliance list. And the reliance list says here</p> <p>9 are the materials that Dr. Kahn is relying on in</p> <p>10 addition to the materials that he cites in his</p> <p>11 report.</p> <p>12 MR. CLINTON: Right.</p> <p>13 MR. KOOPMANN: So I think between those</p> <p>14 two binders that contain his report in the cited</p> <p>15 materials and the USB drive, you would have</p> <p>16 everything that he's considered if you include this</p> <p>17 folder.</p> <p>18 THE WITNESS: Right. And now that you</p> <p>19 mention it, that actually might be responsive to --</p> <p>20 MR. KOOPMANN: Number 2?</p> <p>21 THE WITNESS: -- number 2. So I'm happy</p> <p>22 to -- I apologize.</p> <p>23 MR. CLINTON: No, nothing to apologize</p> <p>24 for, Doctor. If you don't mind, can I take a look at</p>	<p style="text-align: right;">Page 24</p> <p>1 switched to using electronic files more, I just</p> <p>2 didn't touch that for many years.</p> <p>3 Q Okay.</p> <p>4 A So -- but when this litigation came up,</p> <p>5 and I was asked specifically actually for the</p> <p>6 California AG case, the same sort of thing, I</p> <p>7 happened to find that file and said, Well, I guess</p> <p>8 this is part of that request.</p> <p>9 Q Okay.</p> <p>10 A And you requested the same. So...</p> <p>11 MR. CLINTON: At the chance of upsetting</p> <p>12 somebody in this office, I would like to get a copy</p> <p>13 of what's in here.</p> <p>14 MR. KOOPMANN: That's fine. We can do</p> <p>15 that.</p> <p>16 MR. CLINTON: Okay. If you don't mind,</p> <p>17 I'll hand it back to you, and if we could do that,</p> <p>18 and we'll just look at it later in the day.</p> <p>19 MR. KOOPMANN: Sure. We'll have a copy</p> <p>20 made during a break.</p> <p>21 MR. CLINTON: Sure, that's fine.</p> <p>22 BY MR. CLINTON:</p> <p>23 Q Okay. Dr. Kahn, I'm going to mark</p> <p>24 Exhibit 4 to your deposition, which is your CV. And</p>
<p style="text-align: right;">Page 23</p> <p>1 that.</p> <p>2 BY MR. CLINTON:</p> <p>3 Q Doctor, while I'm just peeking at it,</p> <p>4 will you describe to me what is this folder?</p> <p>5 A This is a file that I've had for -- since</p> <p>6 probably around 2000 that -- back before the use of</p> <p>7 computers, this is a file I kept to track things on</p> <p>8 -- with regard to -- what does the tab on the file</p> <p>9 say?</p> <p>10 Q "TVT."</p> <p>11 A This is my file on TVT. So this is a</p> <p>12 file that has various articles, booklets, things like</p> <p>13 that that I would collect of something I thought was</p> <p>14 important and worth putting in the file.</p> <p>15 There's also many copies in there of a</p> <p>16 few things that I thought were important. The reason</p> <p>17 there's copies of it is because in the teaching that</p> <p>18 I do, those things were something I would give out to</p> <p>19 residents that I thought were important. So where</p> <p>20 there's multiple copies of a few of them, and then</p> <p>21 there's other pertinent -- other things in there.</p> <p>22 So this goes back to around 2001, 2002, I</p> <p>23 think, and it was something that I had added to for a</p> <p>24 while, and at some point, you know, as we all</p>	<p style="text-align: right;">Page 25</p> <p>1 you've got one there in your binder, but this is</p> <p>2 the -- I believe the same copy, and this is what was</p> <p>3 produced with your report.</p> <p>4 (Exhibit No. 4 was marked for</p> <p>5 identification.)</p> <p>6 MR. CLINTON: Oh. Here you go.</p> <p>7 MR. KOOPMANN: Thank you.</p> <p>8 BY MR. CLINTON:</p> <p>9 Q Dr. Kahn, just generally, will you</p> <p>10 explain to the jury what it is that you do for a</p> <p>11 living.</p> <p>12 A I'm a gynecologist, and I practice</p> <p>13 gynecology and urogynecology.</p> <p>14 Q What is the difference between gynecology</p> <p>15 and urogynecology, for those in the jury who may not</p> <p>16 know the difference?</p> <p>17 A So my basic training after medical school</p> <p>18 was in obstetrics and gynecology, and that's the --</p> <p>19 you finish a four-year residency, and after that you</p> <p>20 are board eligible. You're eligible to become a</p> <p>21 board certified obstetrician/gynecologist. You can</p> <p>22 take care of patients in -- in obstetrics and in</p> <p>23 gynecology and in general gynecologic problems.</p> <p>24 There are subspecialty certifications</p>

<p style="text-align: right;">Page 26</p> <p>1 available which stem from a basic obstetrics and 2 gynecology specialty. There -- when I finished my 3 residency training, the subspecialty of 4 urogynecology did not -- did not exist. 5 Q It's a more -- it's a newer concept, 6 right? 7 A Right. 8 So in 2013 was the first year when one 9 could become board certified in urogynecology, and in 10 2013 there was a written examination that I had to 11 take to become a board certified urogynecologist, and 12 I prepared for and took that examination and passed 13 it, and was part of the first class to become a board 14 certified urogynecologist. 15 The specialty is formally referred to as 16 female pelvic medicine and reconstructive surgery. 17 But it's also known as urogynecology. So 18 urogynecology is a subspecialty of obstetrics and 19 gynecology. 20 Q Thank you, Doctor. 21 And your CV has references to your 22 academic work as well as appointments that you have. 23 So I want to -- I want to kind of dive in and go step 24 by step, and I understand at points in time there's</p>	<p style="text-align: right;">Page 28</p> <p>1 master's? 2 A Most people with that master's degree 3 will be involved in basic science research would 4 probably be the thing that they would be doing. 5 Researching in physiology, anatomy, chemistry, renal 6 diseases. You could work on a lot of different kinds 7 of basic science things. 8 When people who do, say, for instance, 9 drug development, a lot of drugs that are developed 10 for treating something like diabetes would start in a 11 basic science lab, you know, trying to understand how 12 diabetes works in the cellular mechanism. So that 13 might be the focus of somebody with a master's degree 14 in physiology. 15 Q And you graduated with your master's in 16 '86; is that right? 17 A Yes. 18 Q And you continued your education at 19 Georgetown and went to medical school there; is that 20 right? 21 A Yes. 22 Q Okay. Doctor, for those in the jury who 23 may not know, do -- in med school do you have a major 24 like you would in undergraduate?</p>
<p style="text-align: right;">Page 27</p> <p>1 probably multiple things that you were doing. 2 So I'm going to try to keep it linear in 3 terms of education, professional work as a clinician 4 as opposed to professional work as a professor, and 5 we'll kind of go about it like that. 6 Is that fair? 7 A Sounds very fair. 8 Q Doctor, where did you graduate from 9 undergrad? 10 A Went to the University of California at 11 Irvine. 12 Q And what was your degree in? 13 A I got a degree in biological sciences -- 14 a bachelor degree in biological sciences. 15 Q And then I see on your CV that you got a 16 master's in physiology? 17 A Yes. 18 Q What is physiology, Dr. Kahn? 19 A Physiology is a part of biology in 20 general, the study of the human body, how it works, 21 different parts of the body, different organs, 22 general -- how we work as individuals, humans. 23 Q If someone doesn't go to med school after 24 that, what's a career like for someone with that</p>	<p style="text-align: right;">Page 29</p> <p>1 A Generally, no. There are some schools 2 that have -- or many schools will have a combination 3 of a PhD/MGP program. I guess if you're going to 4 specialize, that would be a physician who wants to 5 combine clinical science and basic science perhaps a 6 little bit more. 7 Q Or a JD/MD if you're a glutton for 8 punishment. 9 A That's a good -- another good example. 10 So those would be kind of more subspecialty sort of 11 things. But, no, I -- I was a -- a regular medical 12 student, if you will. 13 Q Following your graduation from Georgetown 14 Medical School, this was 1990; is that right, Doctor? 15 A That is correct. 16 Q Okay. Did your formal education continue 17 after that? 18 A Yes. 19 Q And where was that? 20 A I -- my initial choice and specialty 21 after graduating from medical school was to train in 22 radiation oncology. In order to train -- and 23 radiation oncology is the treatment of cancer 24 patients with radiation. In order to begin radiation</p>

<p style="text-align: right;">Page 38</p> <p>1 But we have electronic stimulators that can be useful</p> <p>2 for treating incontinence now. I'm not sure of when</p> <p>3 that came on the market.</p> <p>4 Q What about surgical options during that</p> <p>5 time when you first learned how to treat a woman</p> <p>6 suffering from SUI?</p> <p>7 And, Doctor, do you mind today if I say</p> <p>8 "SUI" to keep it shorter?</p> <p>9 A That's fine.</p> <p>10 Q Okay.</p> <p>11 A So surgical options for treating stress</p> <p>12 incontinence that I was exposed to and learned as a</p> <p>13 resident, the Burch procedure, the -- a little bit on</p> <p>14 autologous or other measures for creating slings for</p> <p>15 stress incontinence, and then what was really very</p> <p>16 popular at the time were the needle suspension</p> <p>17 procedures, referred to as Raz or Stamey, seemed to</p> <p>18 be in vogue at the time, and I had a lot of exposure</p> <p>19 to those procedures.</p> <p>20 Q Have you performed all those procedures</p> <p>21 in your career, Doctor?</p> <p>22 A Yes, I have.</p> <p>23 Q And were you trained to perform those</p> <p>24 surgeries that you just mentioned throughout your</p>	<p style="text-align: right;">Page 40</p> <p>1 for the most part, there was a fairly hard transition</p> <p>2 into using the sling products?</p> <p>3 A That is correct.</p> <p>4 Q Is the Burch procedure something that is</p> <p>5 still acceptable today to utilize?</p> <p>6 A Yes, it is.</p> <p>7 Q And the autologous sling, would you</p> <p>8 explain what that is to the jury?</p> <p>9 A An autologous sling procedure is</p> <p>10 performed when a piece of fascial tissue taken from</p> <p>11 the -- and fascia is a firm piece of tissue either</p> <p>12 from the abdomen or from the leg. It can be</p> <p>13 harvested and put -- placed underneath the urethra</p> <p>14 through a large incision usually or a laparoscopic</p> <p>15 procedure. It can be used to offer support to the</p> <p>16 urethra or some compression to the urethra to help</p> <p>17 treat the incontinence.</p> <p>18 Q And is that still an acceptable surgery</p> <p>19 to perform today for a woman suffering from SUI?</p> <p>20 A It is.</p> <p>21 Q It would be within the standard of care</p> <p>22 to perform that surgery?</p> <p>23 A It would be.</p> <p>24 Q And the needle suspension, you referenced</p>
<p style="text-align: right;">Page 39</p> <p>1 internship, residency, and into your practice?</p> <p>2 A Yes, I was.</p> <p>3 Q Are those surgical options that you still</p> <p>4 perform today?</p> <p>5 A No, they are not.</p> <p>6 Q Okay. We can go one at a time.</p> <p>7 When was the last time you performed the</p> <p>8 Burch procedure?</p> <p>9 A I -- probably during my time in the Navy.</p> <p>10 So my first two years out of residency, somewhere in</p> <p>11 there.</p> <p>12 Q Late '90s?</p> <p>13 A Yeah, late '90s. So I haven't performed</p> <p>14 any of the procedures since 2001, 2002, 2003. I'm</p> <p>15 not sure exactly when it stopped. But the use of the</p> <p>16 slings, the TVT slings specifically, really replaced</p> <p>17 those pretty quickly.</p> <p>18 Q So the best you remember, Doctor, you</p> <p>19 have not performed the Burch procedure, utilizing</p> <p>20 autologous slings or needle suspension surgery</p> <p>21 since the time you began using TVT slings in your</p> <p>22 practice?</p> <p>23 A That is correct.</p> <p>24 Q Giving a little bit of wiggle room, but</p>	<p style="text-align: right;">Page 41</p> <p>1 the Raz and the Stamey, Doctor?</p> <p>2 A Yeah.</p> <p>3 Can I take a moment just to look at my --</p> <p>4 Q Yes, sir.</p> <p>5 A -- statement to make sure I didn't miss</p> <p>6 anything?</p> <p>7 Q Maybe the MMK?</p> <p>8 A Right.</p> <p>9 Q So, Doctor, we're actually going to come</p> <p>10 back to that. I realize I haven't walked through</p> <p>11 your work history yet.</p> <p>12 A Okay.</p> <p>13 Q Following your time at the Naval Center</p> <p>14 of San Diego, Doctor, walk me through your</p> <p>15 professional history, not including times that you've</p> <p>16 served as a teacher, more of your clinician role.</p> <p>17 Unless there is an overlap to the point that you</p> <p>18 can't differentiate that.</p> <p>19 A That's fine. I served in the Navy from</p> <p>20 1996 to 1998. Following the completion of my</p> <p>21 service, I was offered a job at UCSD, offered a job</p> <p>22 at UCLA, a couple of private practice offers, but I</p> <p>23 chose to go to UCSD, because I love San Diego, and I</p> <p>24 went to -- to USDC for about a year and a half, and</p>

<p style="text-align: right;">Page 46</p> <p>1 I was intrigued by the data that I had seen 2 initially, and it sounded like something that could 3 be very promising and perhaps a benefit to our 4 patients. 5 Q When you say you were intrigued by the 6 data, I don't expect specifics from 19 years ago, but 7 what do you mean when you say that, intrigued by the 8 data? 9 A Probably looked at some of the early data 10 produced by the doctors in Sweden, I think it is. 11 Norway, Sweden, friends and colleagues there. So 12 probably looking at that data. 13 Q Data regarding what? 14 A The success that they had had with using 15 the slings. 16 Q Okay. Is it fair to say, Doctor, that 17 the TVT was the first sling product you had utilized 18 in your practice? Mesh sling. 19 A Right. So -- 20 Q No? 21 A Yes -- yes, first mesh sling, yes. 22 Q First mesh sling. And since that time -- 23 and let me clarify, if I say "TVT," we're here today 24 to talk about the TVT retro- -- retropubic -- geez --</p>	<p style="text-align: right;">Page 48</p> <p>1 switched to the Boston Scientific product other than 2 I think I used a little bit of Ethicon's -- their 3 single incision sling. Sorry, I'm blanking on the 4 name of it. 5 Q The TVT-O? 6 A No. Their single incision -- 7 Q I'm sorry. 8 A Yeah. So I used that -- I've done -- 9 used that a little bit. But since that time, for the 10 most part, most of the slings I've put in since the 11 switchover have been Boston Scientific products. 12 Q Okay. 13 A But I've probably put in several hundred 14 Ethicon Gynecare TVT slings. 15 Q Correct me if I'm wrong, Doctor, if I 16 remember correctly from your general report, you say 17 that you've implanted approximately 2,000 -- 18 A That's -- 19 Q -- retropubic slings. 20 A That's the best of my recollection. 21 Q Of that many, what percentage would you 22 say were Gynecare TVT products? 23 A Probably 10 percent, the first 24 10 percent.</p>
<p style="text-align: right;">Page 47</p> <p>1 TVT retropubic product, right? 2 A Correct. 3 Q And there are other TVT products, TVT-O, 4 TVT Exact, TVT Secure, right? 5 A Yes. 6 Q Okay. Doctor, do you understand if I 7 just say "TVT," I'm talking about the TVT retropubic 8 device that you wrote a report on? 9 A That sounds like a great plan. 10 Q Okay. All right. 11 Following your start of using the TVT 12 product in your practice, have you utilized any other 13 sling products for the treatment of SUI? 14 A I have. 15 Q Okay. What other products have you 16 utilized? 17 A After several years of using the Gynecare 18 Ethicon TVT sling, I learned about the product that 19 Boston Scientific was using that was similar but had 20 a few advantages and switched to using the Boston 21 Scientific product at some point, and I don't 22 remember the exact date. 2004, 2005. It was 23 essentially the same thing, but had a couple of 24 advantages to it. And after that, I pretty much</p>	<p style="text-align: right;">Page 49</p> <p>1 Q It was your -- 2 A Around 200 is what -- so -- 3 Q Roughly about the first 200 of those 4 2,000? 5 A Yes. 6 Q If that math checks out. 7 A That math checks. 8 Q Doctor, can you explain to the jury -- 9 we'll come back to that. 10 All right. Doctor, so about 2000, 2004, 11 '05, the Gynecare TVT is the product -- your product 12 of choice in your practice for SUI. 13 A Right, two -- no, that's not correct. So 14 around 2000 when I started using it, 2000 until 2004, 15 2005. 16 Q Right. So I apologize if I said that 17 wrong. From around 2002, 2004 or '05, your go-to 18 product for treatment of SUI was the Gynecare TVT. 19 A That is correct. 20 Q And roughly since that time, your main 21 product that you have implanted is the Boston 22 Scientific. 23 A That's correct. 24 Q Do you know what the product name is?</p>

<p style="text-align: right;">Page 58</p> <p>1 MR. KOOPMANN: Object to form, 2 foundation. 3 THE WITNESS: I'm just -- it feels like 4 you're -- I -- I'm not quite sure how to answer your 5 question because I -- I think they would want me to 6 give my honest opinion, and I think -- and I wouldn't 7 give anything but my honest opinion about anything. 8 So I'm not quite sure how to -- how else 9 to answer that. 10 BY MR. CLINTON: 11 Q And if your honest opinion was negative 12 about the TVT product, then they likely wouldn't want 13 you to be their expert witness. Is that fair? 14 MR. KOOPMANN: Object to form, 15 foundation. 16 THE WITNESS: I wouldn't want to 17 speculate on what they would say. I think we should 18 move on. I don't have an answer for you on that. 19 BY MR. CLINTON: 20 Q Doctor, if a plaintiff in this litigation 21 had approached you about serving as an expert 22 witness, would you have considered that role? 23 A I've been approached by a few law firms 24 for cases like that actually before -- I guess I</p>	<p style="text-align: right;">Page 60</p> <p>1 that litigation like this puts -- puts patients at 2 risk if for -- if something like this were to happen 3 like what happened in the 1990s with breast 4 implants. 5 Now, breast implants are not -- breast 6 implants and the Dow Corning thing, and Dow Corning 7 went bankrupt, and then later on it was found that 8 the science actually didn't support the lawsuits that 9 were there. While breast implants went off the 10 market, it has, you know, its own effects. If 11 products like this were to go off the market, I think 12 it would be a huge setback for -- for women that have 13 problems with urinary incontinence. 14 So that's really a lot of why I'm here 15 today talking about this because I think that there's 16 a threat to this treatment that's been very good for 17 patients overall. It's a reason that I basically 18 volunteer a lot of my time for the California lawsuit 19 to talk about it, because I think it really is a 20 threat to the availability of these -- of this great 21 treatment for patients. 22 MR. CLINTON: I'm going to object to the 23 entire answer as nonresponsive. 24 BY MR. CLINTON:</p>
<p style="text-align: right;">Page 59</p> <p>1 should back up -- before I had agreed to do this. I 2 think at this point it would be a little hard to do, 3 but there are possibilities where someone may have 4 had a mesh implanted where they had a complication 5 where there's some malpractice involved, and that 6 might be something I would -- it would make sense for 7 me -- I could possibly help on that. I think in the 8 role I'm in now, I don't think that would be quite 9 the right thing to do. That would probably be a case 10 I shouldn't take on. 11 But I was asked to look at the -- look at 12 the data, come up with an opinion, and I've looked at 13 the data and come up with an opinion. And I think 14 the -- you know, to summarize my opinion, I think the 15 TVT device is the most studied device for treating 16 urinary incontinence we've ever had. I think the 17 long-term -- the midterm, the long-term data, the 18 meta-analyses, the systemic reviews, I think they all 19 support the safety and efficacy of the device. It is 20 definitely as good and actually probably a lot better 21 overall than all the alternative procedures we have. 22 So that's my -- you know, that's the 23 summary of my opinion. So I'm happy to talk about 24 that. I'll -- I guess I'll add that I'm concerned</p>	<p style="text-align: right;">Page 61</p> <p>1 Q Doctor, you -- you think highly of the 2 TVT product; is that fair? 3 A What do you mean by "highly"? Sorry. 4 I -- 5 Q Highly enough of it to write a report in 6 mass tort litigation surrounding the product. 7 A Yes, I do. 8 Q Not highly enough of it to use it in your 9 practice, though. 10 MR. KOOPMANN: Object to form. 11 THE WITNESS: There is -- 12 MR. CLINTON: Strike that. 13 BY MR. CLINTON: 14 Q Doctor, why don't you utilize the TVT 15 product in your practice anymore? 16 A That's a good question. 17 The reason I switched from using the TVT 18 device to the Boston Scientific product had nothing 19 to do with how well or how safe that the TVT was. I 20 think it was safe at that time. I think it remains 21 to be a safe device. 22 The reason I switched was the Boston 23 Scientific product had a -- at least one little 24 advantage for putting it in that made the procedure</p>

<p style="text-align: right;">Page 62</p> <p>1 actually a little bit easier to complete.</p> <p>2 Q And what was that, Doctor?</p> <p>3 A The design of the product had -- the</p> <p>4 design of the original TVT product had trocars that</p> <p>5 you would put in, and they were metal trocars, and</p> <p>6 you would put in -- I'm sorry, it was a trocar, it</p> <p>7 was one trocar came with the kit, if I remember</p> <p>8 correctly. You would put a trocar in, and it was</p> <p>9 back through the retropubic area, and what you would</p> <p>10 do after putting in the trocar, you would leave the</p> <p>11 trocar there, you would fill the bladder up, and you</p> <p>12 would look to make sure that there was no injury to</p> <p>13 the bladder. And once you had assured -- were</p> <p>14 assured there was no injury to the bladder, then you</p> <p>15 would empty the bladder.</p> <p>16 And then you would put it in the other</p> <p>17 side, and then you would do another cystoscopy to</p> <p>18 look and make sure there was no injury to the other</p> <p>19 side. And it worked well and it was a great</p> <p>20 procedure.</p> <p>21 But Boston Scientific came up with this</p> <p>22 innovation where they put a little sheath over the</p> <p>23 trocar so you could actually put in one side, and</p> <p>24 then put in -- with a sheath, and then the sheath</p>	<p style="text-align: right;">Page 64</p> <p>1 surgery, but it's a very minor complication and</p> <p>2 usually is -- resolves in four or five days with a</p> <p>3 catheter treatment. It's not a big deal either way.</p> <p>4 But the sheath actually being in there, if -- if you</p> <p>5 find injury to the bladder, you simple pull the</p> <p>6 sheath out and then you can replace it. So it's a --</p> <p>7 it was really a nice time-saving trick in surgery.</p> <p>8 The procedure is essentially the same.</p> <p>9 The -- the TVT mesh itself, it -- Boston Scientific,</p> <p>10 their mesh is polypropylene. Ethicon's is Prolene.</p> <p>11 They -- I think both products work well. The</p> <p>12 long-term data for both products is it works well.</p> <p>13 There's no complications with it, so I never had any</p> <p>14 issues with the mesh itself.</p> <p>15 Q Is -- is it your belief, Doctor, that the</p> <p>16 TVT product is not made of polypropylene?</p> <p>17 A It's made of a polypropylene, and my</p> <p>18 understanding is it has some other things coated on</p> <p>19 it, I believe.</p> <p>20 Q What other things are coated on it?</p> <p>21 A A couple of different antioxidants, and</p> <p>22 I'd have to refer back if -- you want me to do that?</p> <p>23 Q Sure, that would be fine.</p> <p>24 MR. CLINTON: We're actually right at an</p>
<p style="text-align: right;">Page 63</p> <p>1 would be sitting in there. And this is not the</p> <p>2 sheath covering the mesh. This is the sheath</p> <p>3 covering the trocar.</p> <p>4 Q Covering the trocar.</p> <p>5 A And you could put the -- put the trocar</p> <p>6 in once and put the trocar in a second time and do</p> <p>7 one cystoscopy, and it made it just a quicker</p> <p>8 procedure. And that really was probably one of the</p> <p>9 main reasons I -- I was enamored with that. It's a</p> <p>10 really cool trick, I like that. And it was -- I mean</p> <p>11 it could -- that's really probably the main reason I</p> <p>12 switched from one product to another.</p> <p>13 Q What advantage does the -- the sheath</p> <p>14 give you as the surgeon?</p> <p>15 A Right. So it was -- was and I think</p> <p>16 remains or it does remain a blue color. It was</p> <p>17 easier to see if you had an injury. But the sheath</p> <p>18 actually -- so again, you can leave it in there, and</p> <p>19 if the sheath's there and if there was a bladder</p> <p>20 injury, even with or without the sheath, if you --</p> <p>21 with the original TVT trocar, if you were to put --</p> <p>22 place the trocar and you had injured the bladder, you</p> <p>23 can safely remove it and replace it, the lateral, the</p> <p>24 trocar, and it's -- it is a complication of the</p>	<p style="text-align: right;">Page 65</p> <p>1 hour. Barry, if you want -- you want to get that</p> <p>2 copied?</p> <p>3 MR. KOOPMANN: Sure, if you want.</p> <p>4 MR. CLINTON: Sure.</p> <p>5 THE VIDEOGRAPHER: With the approval of</p> <p>6 all counsel, going off the record. The time is</p> <p>7 approximately 2:08 p.m.</p> <p>8 (Recess.)</p> <p>9 THE VIDEOGRAPHER: With the approval of</p> <p>10 counsel, back on the record. The time is</p> <p>11 approximately 2:21 p.m. This marks the beginning of</p> <p>12 recording media number 2.</p> <p>13 BY MR. CLINTON:</p> <p>14 Q All right, Dr. Kahn, we're back on the</p> <p>15 record. Are you ready to proceed?</p> <p>16 A I am.</p> <p>17 Q We left off and you were looking for</p> <p>18 something that you wanted to, I think, cite to</p> <p>19 based on the questions. Did you find it?</p> <p>20 A I did.</p> <p>21 Q Okay. And what was that?</p> <p>22 A Ethicon Products Worldwide Prolene Resin</p> <p>23 Manufacturing Specifications.</p> <p>24 MR. CLINTON: And, Leslie, would you mind</p>

<p style="text-align: right;">Page 66</p> <p>1 reading back to me what the question was? 2 (Whereupon, the requested record was 3 read.) 4 THE WITNESS: Okay. And a better term I 5 think is "additives." 6 It has a couple of additives, but -- and 7 those additives include calcium stearate, 0.25 to 8 0.35 percent, a lubricant to help reduce tissue drag 9 and promote tissue passage. Another chemical is -- 10 I'm going to give you the acronym. Is 11 that all right? 12 BY MR. CLINTON: 13 Q That's fine. 14 A DLTDP, 0.04 -- zero to 0.6 percent. It's 15 an antioxidant to improve long-term storage of the 16 resin and the fiber, and to reduce potential 17 oxidative reaction in ultraviolet light -- 18 THE REPORTER: Excuse me, Doctor. Can I 19 get you to -- 20 THE WITNESS: Sorry. 21 THE REPORTER: -- start that, "an 22 antioxidant." 23 THE WITNESS: An antioxidant to improve 24 long-term storage of the resin and the fiber to</p>	<p style="text-align: right;">Page 68</p> <p>1 Go ahead. 2 THE WITNESS: Closer to ten years. 2004, 3 2014 -- yeah, 15 years. Okay. I'm sorry. 4 BY MR. CLINTON: 5 Q Yeah, I'm going to ask -- 6 A Time flies. 7 Q Doctor, am I correct that you -- with the 8 exception of a little overlap in time when the 9 transition occurred, that you have not implanted a 10 TVT product in -- in the last ten years? 11 A Yeah, there was a TVT secure product that 12 I had some experience with. I'm not sure exactly 13 when that happened. 14 Q But the TVT retropubic that your report 15 is on, you have not implanted one of those in at 16 least ten years? 17 A That's correct. 18 Q And possibly up to 13, 14, 15 years? 19 A That's correct. 20 Q Did you keep up with literature about the 21 TVT product after the time you stopped utilizing it 22 in your practice? 23 A Yes. In the sense that I continued to 24 read about the treatment of stress urinary</p>
<p style="text-align: right;">Page 67</p> <p>1 reduce the potential oxidative reaction with 2 ultraviolet light. 3 Santonox, S-A-N-T-O-N-O-X, 0.1 to 0.3 4 percent. An anticoagulant to promote stability 5 during compounding and extrusion. 6 Procol, P-R-O-C-O-L, LA-10, 0.25 to 0.35 7 percent. A lubricant to help reduce tissue drag and 8 promote tissue passage. 9 Last is CPC pigment, 0.55 percent max, a 10 colorant to enhance visibility. 11 BY MR. CLINTON: 12 Q And when was it that you learned about 13 the additives that you just explained, Doctor? 14 A Not until preparation for this case. 15 Q And, I apologize, you said that was -- 16 A These cases. 17 Q -- about a year ago when you were 18 approached or a year and a half? 19 A A year and a half ago. 20 Q Before you were approached, Doctor, about 21 a year and a half ago, you had not implanted the TVT 22 in about a 15-year period, is that right, 14, 15 23 years? 24 MR. KOOPMANN: Object to form.</p>	<p style="text-align: right;">Page 69</p> <p>1 incontinence in general, the outcomes -- you know, 2 the long-term studies that were being performed. You 3 know, short-term studies were being performed, 4 comparative studies, meta-analyses. So I -- I 5 continued to look at that literature, and have 6 continued to look at that literature since I was 7 trained. 8 Q The way that you keep up with all the 9 changing surgeries and changing knowledge in the 10 industry; is that fair? 11 A I don't understand your -- what you said. 12 Q Well, that your -- if I understand you 13 right, you kept up with literature about the TVT in 14 the general sense that you keep up with all the 15 products that are changing in your industry. 16 A Yes. I -- 17 Q Not -- no deep dives into the TVT product 18 specifically until work started for this case. 19 MR. KOOPMANN: Object to form. 20 THE WITNESS: That's correct. 21 BY MR. CLINTON: 22 Q This folder of information that you keep 23 on the TVT, Doctor, that -- 24 MR. CLINTON: Barry, do you mind if I</p>

<p style="text-align: right;">Page 90</p> <p>1 don't really -- it's not -- I guess, you know -- am I 2 being compensated for that work? I mean I get paid 3 for the patient visit, but there's no -- I'm not 4 getting any honorariums or anything from Boston 5 Scientific.</p> <p>6 So I'm not quite sure what -- you want to 7 rephrase -- reask the question again? I -- tell 8 them -- ask them what? What is it --</p> <p>9 Q Do you disclose to your patients in which 10 you implant a Boston Scientific product the 11 connections and the work that you're doing with 12 Boston Scientific?</p> <p>13 A That I'm writing an article that I've 14 been involved in research with them? Sometimes, 15 but not as a general rule.</p> <p>16 Q And if I understand --</p> <p>17 A Unless that patient is involved in the 18 research. Absolutely if the patient is involved in 19 the research project.</p> <p>20 Q Sure.</p> <p>21 A But a patient I saw last week with 22 incontinence, I -- I may bring it up. It's not 23 something I keep a secret. It's -- but it's not 24 something -- it's -- there's no conflict as far as me</p>	<p style="text-align: right;">Page 92</p> <p>1 with -- you know, in the realm of TVTs, whether it be 2 complications or -- I honestly had to learn a lot 3 about -- in reviewing some of the plaintiffs' expert 4 reports, a lot of that information was new 5 information, and I wanted to go out and see if there 6 was anything, you know, to these things about 7 degradation and fraying.</p> <p>8 And, you know, this was all kind of 9 things that I hadn't really heard much about in the 10 past, and I hadn't had any clinical problems 11 regarding them. So I did spend a fair amount of time 12 seeing -- searching out to see what there was that I 13 could find, you know, anything out there that I'm 14 kind of missing. That would be a good example of 15 something. So mostly internet searches. And then 16 when I would -- you know, go find -- look for the 17 article and see if there was anything there.</p> <p>18 But I -- I can't remember any specifics 19 for you, but that's the basic mechanism. It was 20 basically using an internet search.</p> <p>21 Q You mentioned a few topics that you -- 22 that were somewhat new to you in reading the 23 plaintiffs' expert reports, and you identified 24 degradation and fraying. Is that right?</p>
<p style="text-align: right;">Page 91</p> <p>1 receiving any payment from Boston Scientific. 2 It's -- I'm excited about the research I do, so I 3 will often talk about research I'm doing.</p> <p>4 But actually that research on their sling 5 is -- it's completed and we're just writing it up at 6 this point. So it's not -- the work I'm doing now is 7 simply writing, and, you know, so -- does that answer 8 your question?</p> <p>9 Q I'm not sure.</p> <p>10 A You want to try it again?</p> <p>11 Q Not really. Your --</p> <p>12 A I'm trying.</p> <p>13 Q Are you?</p> <p>14 A I don't quite get it, you know.</p> <p>15 Q So, Doctor, the research that you did -- 16 so the reliance list, we talked about the documents 17 you had, documents that were provided to you, and 18 documents that you went and found on your own. 19 Literature research, things like that. That's fair?</p> <p>20 A (The witness nods.)</p> <p>21 Q What did you do to perform your own 22 research?</p> <p>23 A Starting with internet-based searches, 24 looking for whatever topic I'm trying to look at</p>	<p style="text-align: right;">Page 93</p> <p>1 A Correct.</p> <p>2 Q Are there other subjects that you -- that 3 were somewhat new to you that you had to go and dive 4 into research?</p> <p>5 A I'm blanking on some of the terms they 6 used at this point, but there were several terms that 7 have been thrown around.</p> <p>8 Q Roping and curling?</p> <p>9 A That sounds familiar.</p> <p>10 Q In your research about these subjects, 11 such as degradation, fraying, would you ask Ethicon 12 to -- to provide you internal documents about these 13 subjects?</p> <p>14 A They were provided to me, and I didn't 15 ask them for additional stuff, but I reviewed a lot 16 of internal documents related to that.</p> <p>17 Q They were provided to you?</p> <p>18 A Correct.</p> <p>19 Q Did you ask about what type of 20 information was being provided to you?</p> <p>21 A I don't understand your question.</p> <p>22 Q So documents were being provided to you 23 about these subjects. Were you asking -- did you 24 ever ask, Do I have everything on this?</p>

<p style="text-align: right;">Page 98</p> <p>1 and forth to me isn't good science. What to me is</p> <p>2 good science comes back to that pyramid of literature</p> <p>3 we're talking about of, you know, what does the data</p> <p>4 really show. What does the data show for clinical</p> <p>5 trials, reports, meta-analyses, things like that.</p> <p>6 So I think these things are good to look</p> <p>7 at, but I don't think there was -- I think I got a</p> <p>8 good flavor from what was provided to me of what some</p> <p>9 of the contradictory e-mails and things back and</p> <p>10 forth had to do. So I did get a good look at I think</p> <p>11 some of the -- you know, what are supposedly damning</p> <p>12 internal e-mails or things that -- the concerns that</p> <p>13 people had that I think were also used by the</p> <p>14 plaintiffs' experts to make them sound as if they</p> <p>15 were representing prospective randomized trials when</p> <p>16 they really weren't. They were just a conversation</p> <p>17 that two people had by e-mail with a concern about</p> <p>18 something.</p> <p>19 Q So concern within a company about a</p> <p>20 particular complication, that's not of any relevance</p> <p>21 to you?</p> <p>22 MR. KOOPMANN: Object to form.</p> <p>23 THE WITNESS: What is of relevance to me</p> <p>24 as a practicing gynecologist would be things that are</p>	<p style="text-align: right;">Page 100</p> <p>1 Q Doctor, have you ever --</p> <p>2 A But again, I want to go back to adding</p> <p>3 that, you know, it's something that I've paid</p> <p>4 attention to in my clinical care of patients, and it</p> <p>5 just hasn't been an issue.</p> <p>6 Q Were you looking for fraying in the mesh</p> <p>7 in 2000 when you began using the TVT product?</p> <p>8 A I was looking for how my patients were</p> <p>9 doing and to seeing if there were problems.</p> <p>10 MR. CLINTON: I'm going to object to</p> <p>11 form -- I mean, I object as nonresponsive.</p> <p>12 MR. KOOPMANN: Hold on. Let him answer</p> <p>13 the question, and then move to strike if you want to</p> <p>14 move to strike and object as nonresponsive.</p> <p>15 BY MR. CLINTON:</p> <p>16 Q You may continue, Doctor.</p> <p>17 MR. KOOPMANN: Thank you.</p> <p>18 BY MR. CLINTON:</p> <p>19 Q We're getting into that area where I'm</p> <p>20 asking questions and you're giving answers about</p> <p>21 something -- something else. So -- and I appreciate</p> <p>22 you want to give a full and accurate answer.</p> <p>23 Were you looking for fraying of the TVT</p> <p>24 product when you began implanting it in 2000?</p>
<p style="text-align: right;">Page 99</p> <p>1 going to have impact -- reasonably associated impact.</p> <p>2 Okay?</p> <p>3 So if someone had a concern about</p> <p>4 fraying, I understand that, and I read through a lot</p> <p>5 of that material. But when it comes to clinical</p> <p>6 care, there -- the literature doesn't show there's</p> <p>7 any -- anything to it. From my perspective, in my</p> <p>8 opinion, I don't think that the -- that whole fraying</p> <p>9 argument, there's just nothing to it when it comes to</p> <p>10 clinical -- clinical application.</p> <p>11 BY MR. CLINTON:</p> <p>12 Q Have you ever done any studies on the</p> <p>13 fraying of mesh or polypropylene, Doctor?</p> <p>14 A I guess you could say I've done a pretty</p> <p>15 good study for 20, 25 years with my own patients, and</p> <p>16 I have not found that to be a problem.</p> <p>17 MR. CLINTON: Object to form.</p> <p>18 BY MR. CLINTON:</p> <p>19 Q Doctor, have you ever conducted a study</p> <p>20 specifically geared at looking at fraying of mesh or</p> <p>21 polypropylene?</p> <p>22 MR. KOOPMANN: Object to form.</p> <p>23 THE WITNESS: I have not.</p> <p>24 BY MR. CLINTON:</p>	<p style="text-align: right;">Page 101</p> <p>1 A Again, my answer would be that I was</p> <p>2 looking for any complications that my patients may</p> <p>3 have. Fraying was not something that -- unless I was</p> <p>4 looking for it, but if fraying were causing problems</p> <p>5 for my patients, I certainly would be interested in</p> <p>6 looking at that, and I was looking at that carefully</p> <p>7 to see if my patients were having any problems with</p> <p>8 their surgery.</p> <p>9 Q Doctor, you testified previously that</p> <p>10 fraying was a new concept to you that you first heard</p> <p>11 about in reading the plaintiffs' expert reports. Did</p> <p>12 I have that wrong?</p> <p>13 MR. KOOPMANN: Object to form.</p> <p>14 THE WITNESS: No, that's correct.</p> <p>15 BY MR. CLINTON:</p> <p>16 Q Okay. Were you looking specifically for</p> <p>17 fraying of the mesh when you began implanting it in</p> <p>18 2000?</p> <p>19 A I was looking for problems -- any</p> <p>20 problems my patients might be having with surgery.</p> <p>21 Q Did you know to look for fraying of the</p> <p>22 TVT product?</p> <p>23 A I was looking for their clinical</p> <p>24 outcomes.</p>

Page 102

1 MR. CLINTON: Objection. Nonresponsive.
 2 BY MR. CLINTON:
 3 Q Doctor, were you looking for fraying of
 4 the TVT product in 2000 when you began implanting it
 5 in your patients?
 6 A I was looking for any problems they might
 7 have, including something like fraying that I may not
 8 have been aware of.
 9 But, again, I was looking for any
 10 clinical problems they might be having.
 11 Q What did you do to look for fraying in
 12 2000, Doctor?
 13 A I was just seeing how my patients were
 14 doing. I wanted to see if they -- if -- was their
 15 sling working well, were they having any problems
 16 from it, were they having any complications from it,
 17 were they satisfied with their treatment.
 18 Q Doctor, do you want to change your
 19 testimony earlier about fraying being a new concept
 20 to you when you began your work in this case?
 21 MR. KOOPMANN: Object to form.
 22 THE WITNESS: No, I don't think I need
 23 to.
 24 BY MR. CLINTON:

Page 103

1 Q All right. Let's get into the report.
 2 (Exhibit No. 7 was marked for
 3 identification.)
 4 MR. CLINTON: I have a clean copy for
 5 you.
 6 BY MR. CLINTON:
 7 Q Doctor, how long -- not in terms of hours
 8 accumulated, but start to finish, how long did you
 9 work on your general report?
 10 A Approximately 20 hours.
 11 Q And again, from -- if you start on
 12 August 1st, and you work days, weeks, months, from
 13 start to finish, how long was it? Not an
 14 accumulation of hours, just over how much time?
 15 A Several weeks.
 16 Q Did you write the general report, Doctor,
 17 regarding the TVT device?
 18 A I did.
 19 Q Did you write every word of it?
 20 A I did.
 21 Q What type of review process did you do to
 22 make sure it was accurate?
 23 A I -- I don't quite understand your
 24 question.

Page 104

1 Q Poor question.
 2 Following, let's say, what would have
 3 been a first draft of your -- of your general report,
 4 what did you do to go back through and review and
 5 edit it?
 6 A Like I would write any paper, I go back
 7 and, you know, edit -- I look at paragraphs, I look
 8 at references, I look at word choice, I look at
 9 sentence structure.
 10 Q A true proofreading?
 11 A Right, and I try to -- try to write well.
 12 Q At least you said "write well" and not
 13 "write good."
 14 So, Doctor, you did have the chance to
 15 proofread your general report before it was
 16 submitted; is that fair?
 17 A That's fair.
 18 Q Okay. After you had done your research
 19 and investigation, Doctor, of all the materials
 20 available to you, did you ever ask for additional
 21 materials that supported the opinions that you began
 22 to develop?
 23 A It kind of goes back to the question you
 24 were asking earlier, that in developing my opinions,

Page 105

1 I was researching it while I was developing my
 2 opinions. So...
 3 Q Right. And so -- hypothetically, so your
 4 -- well, not hypothetically.
 5 One of your opinions is about the TVT
 6 product does not cause dyspareunia. Is that fair?
 7 A That's fair.
 8 Q Okay. And after you've done research and
 9 investigation and you start to come up with that
 10 opinion, you start to form that opinion, did you ever
 11 reach out to Ethicon and say, My opinion on
 12 dyspareunia is this. Do you have anything else to
 13 help support that opinion?
 14 A I did not.
 15 Q Were any opinions in your report supplied
 16 to you?
 17 A They were not.
 18 Q Were there any phrases that were supplied
 19 to you that you should use in your report?
 20 A No, not that I recall.
 21 Q Is your report the result of careful
 22 consideration of the materials available to you?
 23 A I believe it is.
 24 Q Did you draft this report with the

<p style="text-align: right;">Page 126</p> <p>1 BY MR. CLINTON:</p> <p>2 Q What about -- what about your research</p> <p>3 regarding lightweight mesh, when did that begin?</p> <p>4 A Again, it goes back -- I can't tell you</p> <p>5 how many years, but it's something that has been, you</p> <p>6 know, discussed in the literature and at meetings and</p> <p>7 with colleagues for a long time. So I can't give you</p> <p>8 a precise --</p> <p>9 Q And what is beneficial about lightweight</p> <p>10 mesh?</p> <p>11 A The macroporous and lightweight mesh</p> <p>12 allows the integration into the tissue better than</p> <p>13 the smaller or the older microporous things. An</p> <p>14 example is the use of Gore-Tex is something that is a</p> <p>15 macroporous product that had been used for -- you</p> <p>16 know, had been tried for treatment of incontinence,</p> <p>17 and it didn't work well, wasn't incorporated in the</p> <p>18 tissue, was encapsulated.</p> <p>19 And so the large pore lightweight mesh</p> <p>20 such as what's the TVT is made of avoids those</p> <p>21 problems, allowing tissue integration.</p> <p>22 Q What allows -- what allows the tissue</p> <p>23 integration? What about the larger pore size?</p> <p>24 A I think the basic understanding has to do</p>	<p style="text-align: right;">Page 128</p> <p>1 biocompatibility. What research have you done</p> <p>2 regarding the biocompatibility of the TVT product?</p> <p>3 Strike that.</p> <p>4 When did your research begin about the</p> <p>5 biocompatibility of the TVT product?</p> <p>6 A Probably about the time I started</p> <p>7 performing the TVT procedure back around 2000.</p> <p>8 Q And when you say that, are you</p> <p>9 referencing your clinical experience?</p> <p>10 A Right. Clinical experience and -- and</p> <p>11 research and -- and attendance at meetings and, you</p> <p>12 know, are we having problems with this implant in</p> <p>13 patients. So --</p> <p>14 Q Do you have any --</p> <p>15 A -- it goes back to the breadth and depth</p> <p>16 of my -- you know, my clinical activity in general</p> <p>17 going way back when. So...</p> <p>18 Q Other than clinical experience in</p> <p>19 implanting the mesh and monitoring patients who have</p> <p>20 it implanted, do you have any training in the</p> <p>21 biocompatibility of products implanted in the body?</p> <p>22 A Sure. It really goes back to my -- my</p> <p>23 experience, you know, as a physician, becoming a</p> <p>24 physician. While I don't do research on, you know,</p>
<p style="text-align: right;">Page 127</p> <p>1 with the idea that the inflammatory response that</p> <p>2 happens acutely can allow macrophages to come in.</p> <p>3 There's -- tissue actually grows in and around the</p> <p>4 mesh product as -- you know, it grows in between the</p> <p>5 mesh product as opposed to being stuck on the</p> <p>6 outside. So...</p> <p>7 Q And then that's more regarding the pore</p> <p>8 size. What about being lightweight? Lightweight</p> <p>9 versus a heavier weight mesh, why does that matter?</p> <p>10 A I think it's the -- the same idea. It's</p> <p>11 going to have, you know, allow the -- the mesh to be</p> <p>12 there a little bit easier, allow integration, and I</p> <p>13 think they're really connected, the two answers. So</p> <p>14 I'm not sure there's really a different answer for</p> <p>15 those two.</p> <p>16 Q Well, what specifically was negative</p> <p>17 about a heavier weight mesh?</p> <p>18 A Again, I think it was all part of --</p> <p>19 heavier weight mesh is going to be a denser mesh with</p> <p>20 smaller pores. So I think the two go hand in hand a</p> <p>21 little bit. I'm not sure how to differentiate that</p> <p>22 further for you.</p> <p>23 Q And then in that first sentence I read,</p> <p>24 Doctor, it's known for its excellent</p>	<p style="text-align: right;">Page 129</p> <p>1 the polymers, I -- I do research with patients. I</p> <p>2 take care of patients, clinical taking care of</p> <p>3 patients. And so you have to understand it really</p> <p>4 goes hand in hand. If you don't have an</p> <p>5 understanding of biocompatibility of something you're</p> <p>6 putting in a patient, if you're not following them</p> <p>7 clinically, then it -- you wouldn't be performing</p> <p>8 your duties as a physician well.</p> <p>9 Q So is your opinion about the</p> <p>10 biocompatibility of TVT solely based on your</p> <p>11 experience as a clinician?</p> <p>12 MR. KOOPMANN: Object to form.</p> <p>13 THE WITNESS: No. Because in addition to</p> <p>14 that, in developing my opinion here, I've been</p> <p>15 provided a lot of additional information to -- and</p> <p>16 found additional information on my own to develop the</p> <p>17 opinions I've provided here.</p> <p>18 BY MR. CLINTON:</p> <p>19 Q Have you ever performed your own research</p> <p>20 on the biocompatibility of certain materials in the</p> <p>21 body?</p> <p>22 A I performed my research in the form that</p> <p>23 we discussed, that it's -- it's clinically -- I'm</p> <p>24 taking care of patients every day.</p>

<p style="text-align: right;">Page 130</p> <p>1 Q Have you ever been part of any specific 2 research regarding polypropylene and its 3 biocompatibility? 4 A I have. 5 Q Okay. 6 A In the things we just talked about 7 that -- 8 Q Your clinical experience and -- 9 A -- my trial we just finished, the 10 FDA-required trial that we just -- we just finished 11 on the single incision sling. 12 Q Okay. And explain -- explain your role 13 as it relates to biocompatibility of the product. 14 A So these patients in this study, we 15 followed them very closely for any problems that they 16 have regarding the implant of the sling. So did they 17 have any problems with mesh exposure, did they have 18 any problems with inflammation, did they have 19 problems with detection. These would be things that 20 would be part of nonbiocompatibility, if you will. 21 Q And was that solely based on objective -- 22 I'm sorry, strike that. 23 Was that solely based on subjective 24 reports from the participants?</p>	<p style="text-align: right;">Page 132</p> <p>1 A Right. 2 Q Do you have any specific training in 3 the -- in biocompatibility of products, medical 4 products? 5 MR. KOOPMANN: Object to form. 6 THE WITNESS: I -- I think so. I think 7 going back to my residence training. I mean, 8 that's -- it goes back that far. I think that there 9 is a significant amount of biocompatibility training 10 involved in taking care of patients and putting these 11 implants in. 12 BY MR. CLINTON: 13 Q Continuing on in that paragraph, Doctor, 14 half -- it's about halfway down and halfway across 15 the line, "The fact that the device" -- do you see 16 that? 17 A Mm-hmm. 18 Q "The fact that the device is made from 19 Prolene polypropylene is comforting for surgeons, as 20 the integrity and biocompatibility of the material is 21 well known." 22 Can you explain that a little more? 23 A I -- do you have a specific question? 24 Q Regarding the biocompatibility of the</p>
<p style="text-align: right;">Page 131</p> <p>1 A No. They were followed closely 2 objective- -- I mean, at six-month intervals for 3 three years. 4 Q All right. And what was done to monitor 5 it? 6 A Physical -- I mean, it was a combination 7 of subjective -- of questionnaires and physical 8 examination. So there's a combination of things that 9 were looked at, at each visit they come in for. 10 Q And what's being done in the examination? 11 A For patients that were in the -- the 12 trial for the sling specifically, it's looking and 13 doing a vaginal exam, seeing if it's there, seeing if 14 there is any exposure of the mesh material, assessing 15 for symptoms that they're having, pain problems. You 16 know, a whole host of things like that. So... 17 Q Other than in a clinical setting, have 18 you done any research on the biocompatibility of the 19 TVT in the body? 20 A Such as what? 21 Q Their -- anything. 22 A I would go back to the research that I -- 23 the reading I do. So -- 24 Q The reading and clinical experience?</p>	<p style="text-align: right;">Page 133</p> <p>1 material being well known, what's your basis for that 2 opinion? 3 A The TVT device and -- and other mesh 4 products, they are the most studied treatment for 5 urinary incontinence that -- that we've ever had. 6 Q And is the fact that it's the most 7 studied, is that only a good thing to you? 8 A It's the most studied and -- and those 9 studies show that it really has been the -- the 10 treatment we have that is the most effective with the 11 least amount of complications. 12 Q Do all of the studies show that? 13 A No, they do not. But -- but when you 14 look on balance, you know, there -- there are going 15 to be studies that show that -- that it doesn't work 16 that well, and those -- most of those studies that 17 show that it doesn't work that well are going to be 18 in that lower level of type of study probably where 19 it's a retrospective study or -- but when we start 20 looking at higher level studies, such as 21 meta-analysis and systemic reviews, on balance you're 22 going to find that this really is safe and effective 23 relative to other procedures that we had in the past 24 or that we still have.</p>

Page 150	Page 152
<p>1 any reaction there.</p> <p>2 Yes, dyspareunia happens after surgery,</p> <p>3 no matter what it is.</p> <p>4 But I think, to answer your question, I</p> <p>5 don't think there's any inherent characteristic of</p> <p>6 the device that would cause the dyspareunia.</p> <p>7 Q So, Doctor, is it your -- is it your</p> <p>8 opinion that the risk of dyspareunia is the same</p> <p>9 across all SUI surgeries, mesh or non-mesh?</p> <p>10 A I don't know if it's the same. Actually,</p> <p>11 it -- I think with some of the other procedures you</p> <p>12 may have some increased risk.</p> <p>13 But the -- the underlying statement there</p> <p>14 is that pain is a risk of surgery, any vaginal</p> <p>15 surgery, whether it be a sling or any other repair,</p> <p>16 there is a risk of dyspareunia.</p> <p>17 Q And there's no inherent -- there's no</p> <p>18 inherent characteristic of the TVT device that would</p> <p>19 cause pelvic pain.</p> <p>20 A That is my opinion.</p> <p>21 Q There is no inherent characteristic of</p> <p>22 the TVT device that causes vaginal pain.</p> <p>23 A That is my opinion.</p> <p>24 Q There is no inherent characteristic of</p>	<p>1 just stick to my statement here. I don't think</p> <p>2 there's any inherent characteristic of the device</p> <p>3 that would cause vaginal pain or dyspareunia.</p> <p>4 Q Meaning that it's --</p> <p>5 A Do you have anything specific you're</p> <p>6 trying to ask about with inherent characteristics of</p> <p>7 the device?</p> <p>8 Q Well, just -- I want to make sure I'm --</p> <p>9 I'm not misinterpreting "inherent characteristic."</p> <p>10 I mean the -- the TVT device, there's</p> <p>11 nothing about the TVT device, the actual mesh product</p> <p>12 implanted, there's nothing about that that causes</p> <p>13 pelvic pain.</p> <p>14 A That I -- there's no inherent</p> <p>15 characteristic that I know of that -- that is related</p> <p>16 to that. So if there's something else that you're --</p> <p>17 characteristic you're interested in asking about --</p> <p>18 Q This is -- this is my -- this is my</p> <p>19 chance to make sure I understand, and that the</p> <p>20 country understands, your opinions that are in</p> <p>21 your -- in your report.</p> <p>22 Moving on to the next section, "Erosion</p> <p>23 or Exposure." It's going to be a similar line of</p> <p>24 questioning, Doctor.</p>
Page 151	Page 153
<p>1 the TVT device that causes dyspareunia.</p> <p>2 A Did you just ask that question again?</p> <p>3 Q Vaginal pain and then I went to</p> <p>4 dyspareunia. Pelvic pain, vaginal pain, dyspareunia.</p> <p>5 A Yes. That I --</p> <p>6 Q I mean I'll ask it so it's clean.</p> <p>7 And, Doctor, there's -- it's your opinion</p> <p>8 that there's no inherent characteristics of the TVT</p> <p>9 device that cause dyspareunia?</p> <p>10 A That is true.</p> <p>11 Q Any --</p> <p>12 A That's my opinion.</p> <p>13 Q Any pelvic pain that occurs following a</p> <p>14 TVT implant has nothing to do with the TVT product</p> <p>15 itself.</p> <p>16 A Again, I think you can have pain develop</p> <p>17 from any procedure that you have done in the vagina,</p> <p>18 whether there's mesh used or not.</p> <p>19 Q If there is a TVT product implanted, not</p> <p>20 talking about other products, in an instance where a</p> <p>21 woman has a TVT product implanted, it's your</p> <p>22 testimony there is nothing about that product and no</p> <p>23 case that the TVT product causes the pelvic pain?</p> <p>24 A I don't think there's -- I'm going to</p>	<p>1 The first sentence reads: "Mesh erosions</p> <p>2 or exposures are not attributable to any alleged</p> <p>3 defect in the TVT or any inherent characteristic in</p> <p>4 the TVT device."</p> <p>5 Did I read that correctly?</p> <p>6 MR. KOOPMANN: Object to form.</p> <p>7 MR. CLINTON: Did I not --</p> <p>8 MR. KOOPMANN: You almost did.</p> <p>9 MR. CLINTON: I will try it again.</p> <p>10 BY MR. CLINTON:</p> <p>11 Q "Mesh erosions or exposures are not</p> <p>12 attributable to an alleged defect in the TVT or any</p> <p>13 inherent characteristic in the TVT device."</p> <p>14 Did I read that correctly?</p> <p>15 A Yes.</p> <p>16 Q Okay. Is it fair that this breaks down</p> <p>17 the same way that the previous statement about pelvic</p> <p>18 pain does, that it's not attributable to a defect or</p> <p>19 any inherent characteristic of the device?</p> <p>20 MR. KOOPMANN: Object to form.</p> <p>21 Go ahead.</p> <p>22 THE WITNESS: I would agree with that</p> <p>23 statement. That's what it says.</p> <p>24 BY MR. CLINTON:</p>

Bruce S. Kahn, M.D.

<p style="text-align: right;">Page 182</p> <p>1 level of surety from higher level type evidence, such 2 as systematic reviews, meta-analyses, prospective 3 clinical trials, giving them much more credence than 4 studies that are case series, case reports, 5 retrospective reviews, things like that. 6 So that level of evidence really -- and 7 that kind of goes through any time we're looking at 8 any problem, we want to address that literature that 9 way. 10 Q Did you read depositions of the 11 plaintiffs' experts in addition to their reports? 12 A I did. 13 Q You were asked some questions by 14 Mr. Clinton earlier about the Erosion or Exposure 15 section of your report on page 18. 16 Do you recall that questioning generally? 17 A I do. 18 Q Six lines up from the bottom of that 19 paragraph, did you note: "Patient factors such as 20 vaginal atrophy, diabetes and smoking can contribute 21 to mesh exposures or erosions, as can technique 22 related factors such as superficial dissection during 23 mesh placement." 24 A Yes --</p>	<p style="text-align: right;">Page 184</p> <p>1 THE VIDEOGRAPHER: With the approval of 2 counsel, this concludes today's video deposition. 3 The time is approximately 4:36 p.m. We're now off 4 the record. 5 (A discussion was held off the record.) 6 MR. CLINTON: I'm marking as Exhibit 9 7 the flash drive that Dr. Kahn brought to the 8 deposition today. 9 (Exhibit No. 9 was marked for 10 identification.) 11 (Whereupon, the deposition of 12 BRUCE STEVEN KAHN, M.D., was 13 concluded at 4:39 p.m.) 14 15 16 17 18 19 20 21 22 23 24</p>
<p style="text-align: right;">Page 183</p> <p>1 MR. CLINTON: Object to form. 2 THE WITNESS: Yes. And thank you for 3 pointing that out. I was -- meant to include that in 4 my original statement. I knew there were some other 5 things there, and I couldn't quite think of them. I 6 was drawing a blank, and fortunately, in my writing I 7 had it there. I should have gone and looked for 8 that. 9 But those are very -- other risk factors 10 for developing the erosions or exposures. 11 BY MR. KOOPMANN: 12 Q Between your report marked as Exhibit 7 13 and the testimony that you provided today, does that 14 contain your opinions regarding the TVT device as you 15 sit here today? 16 A Yes, it does. 17 Q Do you hold all of the opinions that 18 you've offered to a reasonable degree of medical 19 certainty? 20 A I do. 21 MR. KOOPMANN: Those are all my 22 questions. Thanks, Dr. Kahn. 23 THE WITNESS: Thanks. 24 MR. CLINTON: Nothing else.</p>	<p style="text-align: right;">Page 185</p> <p>1 CERTIFICATE OF CERTIFIED SHORTHAND REPORTER 2 The undersigned Certified Shorthand Reporter 3 does hereby certify: 4 That the foregoing proceeding was taken before 5 me at the time and place therein set forth, at which 6 time the witness was duly sworn; That the testimony 7 of the witness and all objections made at the time of 8 the examination were recorded stenographically by me 9 and were thereafter transcribed, said transcript 10 being a true and correct copy of my shorthand notes 11 thereof; That the dismantling of the original 12 transcript will void the reporter's certificate. 13 In witness thereof, I have subscribed my name 14 this date: August 2, 2019. 15 16 _____ 17 LESLIE A. TODD, CSR, RPR 18 Certificate No. 5129 19 (The foregoing certification of 20 this transcript does not apply to any 21 reproduction of the same by any means, 22 unless under the direct control and/or 23 supervision of the certifying reporter.) 24</p>

Bruce S. Kahn, M.D.

<p style="text-align: right;">Page 186</p> <p>1 INSTRUCTIONS TO WITNESS</p> <p>2 Please read your deposition over carefully and</p> <p>3 make any necessary corrections. You should state the</p> <p>4 reason in the appropriate space on the errata sheet</p> <p>5 for any corrections that are made.</p> <p>6 After doing so, please sign the errata sheet</p> <p>7 and date it.</p> <p>8 You are signing same subject to the changes you</p> <p>9 have noted on the errata sheet, which will be</p> <p>10 attached to your deposition. It is imperative that</p> <p>11 you return the original errata sheet to the deposing</p> <p>12 attorney within thirty (30) days of receipt of the</p> <p>13 deposition transcript by you. If you fail to do so,</p> <p>14 the deposition transcript may be deemed to be</p> <p>15 accurate and may be used in court.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p style="text-align: right;">Page 188</p> <p>1 ACKNOWLEDGMENT OF DEPONENT</p> <p>2 I, _____, do hereby</p> <p>3 certify that I have read the foregoing pages, and</p> <p>4 that the same is a correct transcription of the</p> <p>5 answers given by me to the questions therein</p> <p>6 propounded, except for the corrections or changes in</p> <p>7 form or substance, if any, noted in the attached</p> <p>8 Errata Sheet.</p> <p>9</p> <p>10 _____</p> <p>11 BRUCE S.KAHN, M.D. DATE</p> <p>12</p> <p>13</p> <p>14 Subscribed and sworn to</p> <p>15 before me this</p> <p>16 _____day of _____, 20____.</p> <p>17 My commission expires: _____</p> <p>18 _____</p> <p>19 Notary Public</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
<p style="text-align: right;">Page 187</p> <p>1 -----</p> <p>2 E R R A T A</p> <p>3 -----</p> <p>4 PAGE LINE CHANGE</p> <p>5 _____</p> <p>6 REASON: _____</p> <p>7 _____</p> <p>8 REASON: _____</p> <p>9 _____</p> <p>10 REASON: _____</p> <p>11 _____</p> <p>12 REASON: _____</p> <p>13 _____</p> <p>14 REASON: _____</p> <p>15 _____</p> <p>16 REASON: _____</p> <p>17 _____</p> <p>18 REASON: _____</p> <p>19 _____</p> <p>20 REASON: _____</p> <p>21 _____</p> <p>22 REASON: _____</p> <p>23 _____</p> <p>24 REASON: _____</p>	